

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 13, 2002

TO: ALL PARTIES OF RECORD IN APPLICATION 01-01-038

Decision 02-12-022 is being mailed without the Concurrence of Commissioner Carl Wood. The Concurrence will be mailed separately.

Very truly yours,

/s/ CAROL BROWN
CAROL A. BROWN, Interim Chief
Administrative Law Judge

CAB/avs

Decision 02-12-022 December 5, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U 39 E) and the City of Santa Rosa for an Order Under Section 851 of the California Public Utilities Code to Sell and Convey Streetlight Facilities.

Application 01-01-038
(Filed January 25, 2001)

O P I N I O N

1. Summary

Pacific Gas and Electric Company (PG&E) petitions the Commission to modify Decision (D.) 01-06-005 to extend the effective period for sale of streetlight facilities to the City of Santa Rosa for an additional year. The request is unopposed. The petition is granted.

2. Background

On January 25, 2001, PG&E filed this application for an order under Pub. Util. Code § 851 to sell and convey streetlight facilities to the City of Santa Rosa.

In D.01-06-005, the Commission approved the sale, relieved PG&E of the public duties of owning, operating and maintaining the streetlight system once the sale and conveyance were complete, and authorized the disposition of the gain-on-sale of the facilities to PG&E's shareholders subject to the requirement that PG&E file the final cost figures for the facilities within 90 days of the purchase date of the transaction.

The Commission ordered that PG&E's authority to sell and convey the streetlight facilities would expire if that authority was not exercised within one year. PG&E's authority in D.01-06-005 expired on June 8, 2002.

PG&E states that it was unable to exercise its authority granted in the decision within the effective period because of formerly unresolved issues related to the sale of utility property, including streetlights, that were pending before the United States Bankruptcy Court. PG&E is a debtor in possession in a Chapter 11 reorganization proceeding pending before the Bankruptcy Court for the Northern District of California.

On October 15, 2001, the Bankruptcy Court issued an order granting PG&E's motion for authority to sell or encumber utility property within certain parameters. However, according to PG&E, it was not clear from the order that PG&E was authorized to sell streetlights according to the valuation methodology typically used in the sale of such facilities. Normally, PG&E establishes the fair market value of streetlights by determining the "Replacement Cost New Less Depreciation" (RCNLD), not by appraisal or competitive bidding methods. PG&E requested authority to continue using the RCNLD method of valuing streetlights, and the Bankruptcy Court approved that method in a separate order on May 13, 2002.

In this petition, PG&E asks the Commission to modify D.01-06-005 to extend the date within which the streetlight sale must take place by one year.

3. Discussion

We will grant the petition.

All of the benefits to the public and all of the reasons that supported the Commission's approval in D.01-06-005 remain. Among them: The buyer offered a price for the facilities that is greater than RCNLD; the buyer has the right to

exercise its power of eminent domain to acquire the streetlight facilities; the sale process saves parties the costs of litigation and condemnation proceedings; the buyer may lower the costs to serve its citizens by owning, operating and maintaining the facilities itself; ratepayers have not contributed capital to the streetlight system; and PG&E's customers will not suffer a decline in service as a result of the sales.

The petition for modification comes more than a year after D.01-06-005 was issued, but the delay has been justified by the time required to obtain clarification of Bankruptcy Court orders.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

4. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Glen Walker is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. In D.01-06-005, the Commission authorized PG&E to sell and convey streetlight facilities to the City of Santa Rosa.
2. In D.01-06-005, the Commission ordered that PG&E's authority to sell and convey the streetlight facilities would expire if that authority was not exercised within one year.
3. PG&E's Bankruptcy Court proceedings caused a delay in the sale of the streetlight facilities, but that delay has now been resolved.
4. PG&E asks the Commission to modify D.01-06-005 to extend the date within which the streetlight sales must take place by one year.

Conclusion of Law

The petition for modification of D.01-06-005 should be granted.

O R D E R

IT IS ORDERED that:

1. Ordering Paragraph 3 of Decision 01-06-005 is modified to read as follows:
“3. The authority granted herein shall expire if not exercised within two years of the date of this order.”
2. Application 01-01-038 is closed.

This order is effective today.

Dated December 5, 2002, at San Francisco, California.

HENRY M. DUQUE
CARL WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners

President Loretta M. Lynch, being necessarily absent,
did not participate.

I will file a concurrence.

/s/ CARL WOOD
Commissioner